Richard Imlay
vs
Norwich & Worcester R. R. Co } Circuit Court at New Haven October 1858.

The bill of Complaint sets forth, that the Complainant was the original and first inventor of a new and useful improvement in the mode and means of supporting the bodies of Rail Road cars and carriages, and connecting them with the truck, and that on the 21st day of September 1837, a Patent was granted to secure the same to him for the period of fourteen years. It also sets forth, that on or about the first day of September 1851, the said Patent was extended for seven years from the 21st day of September 1851. That the defendants, without the license of the Complainant, have been using, and at the time of the filing of the bill, were using, the improvement patented, on a large number of cars running on their road, between Worcester in the State of Massachusetts and Allyn's Point, and New London and Norwich in the State of Connecticut. The bill prays for an injunction; for an account; and for other relief. The extended Patent, has now expired. It was in force however, when the bill was filed.

Exception has been taken by the defendants, that as an injunction cannot now be ~~granted~~ ordered, that the account, and the other relief sought by the bill cannot be granted:— that the ~~same is~~ ordering the account, and the granting the other relief, are ancillary to the granting of the injunction, and that an account cannot be ordered, unless an injunction is also ordered— The Patent act of 1836, in the 17th section thereof provides, that all actions suits controversies, and cases arising under any law of the United States, granting or confirming to inventors the exclusive right to their inventions or discoveries, shall be originally cognizable, as well in equity as at law by the Circuit Courts of the United States. And it has already been expressly decided by Justice Grier, in a case before him, on a Sickles Patent, that where, between the time of filing the bill, and the hearing, the Patent had expired, that an account could be ordered and other relief granted, though, on account of the expiration of the Patent, an injunction ~~could~~ ~~not~~ to restrain the future use could not issue.

The validity of the Patent is not questioned by the defendants— They admit, that the thing patented, was new and useful: that the Patent secured to Hurley, that which it purported to secure to him. That part of the bill only is denied, which charges, that the defendants are using and have used ~~that~~ the device the exclusive right to use which, was secured to Hurley, by the Patent.

Two questions therefore are presented for determination— 1— What does the Patent purport to grant, and secure to Imlay— 11— What do the Defendants use— And having determined these two questions, then this further question will be presented. Is the device used by the Defendants, or any one of the devices used by them, substantially like the device or invention secured to Imlay, or any substantial portion of the same—

The invention of Imlay, was designed to afford a new and improved mode of supporting the bodies of eight wheel car carriages, upon the trucks, upon which they are placed;— to supply a more safe and useful connexion, between the [illegible] truck and carriage body, than had before been known, by the support which the invention would afford to such connexion;— to more effectually, usefully and safely, unite the two ~~bodies~~, the truck and car carriage, into one, for the use for which, the car was designed, the transportation of passengers and freight;— to effectually ensure the safe keeping of the carriage on to the truck, in its proper position, by the support which it would provide, while at the same time, it would enable the car, composed of the carriage and trucks, to move with facility and ease, upon the track of the road as desired— The support for the carriage body required, was a support, while the car was in motion. And the design of the invention was, to give such support;- to keep the carriage on the truck safely ~~and~~ securely, and in proper position, while the car was in motion. The support particularly required was, a longitudinal and lateral support. Without a longitudinal support, there would be no sufficient protection, for the carriage to remain on the truck, in proper position, either in the forward or backward movements of the car, especially in the case of a collision, or when it should meet with any obstruction. Without a lateral support, there would be no sufficient safeguard, to protect the carriage, from being thrown off, or turned over on the side. A vertical support was also required. But such vertical support, would be of no sufficient use, in a car, moving at a rapid rate, of speed, unless there was both a longitudinal and lateral support. And the object of the Patentee, in the invention which he made, and which he described in his specification, was to afford these support and protection in these ~~these~~ several particulars. And by such invention, any movement was allowed in turning curves, and also a complete rotary movement if desired.

The essential means used, to accomplish

the desired result, and to afford the support required and intended, in the particulars above stated, are two cylindrical plates, one placed above and within the other, in the middle of the car, at or near each end of the car;- one strongly confined and fastened to the carriage;- the other strongly confined and fastened to the truck; and which cylinder plates, being so applied, the one entering the other, to a sufficient depth, afford the support desired and intended, without the aid of any other instrumentality.

In the specification is described, how by these means, the required support in the particulars above named is given, and the desired result is obtained, without any aid from any other instrumentality. And the description is intended to show, how by these means, the support in the particulars above named, can be effectually afforded; not only how it can be afforded in one of the particulars named, but in all of them; not only how danger is guarded against, and safety secured, from the vertical preſsure, but also how, from the longitudinal and lateral preſsure.

A hollow round cast iron bed plate is made, two feet in diameter, more or leſs, flat upon the bottom, and of sufficient thickneſs for strength, to support the weight, which it is intended to sustain. It has an upright rim projecting upwards, all around its periphery, two inches high more or less, and about one inch thick. The bottom of this bed plate is turned upon the inside, flat or level, and the top edge of the rim, horizontal and true, and its inner periphery vertical and smooth. A top plate of the same diameter is made, with a rim projecting downwards of nearly the same thickness as that of the bed plate rim, but not quite so deep. This is turned into the exterior rim, so as to make nearly a close fit. It has a flange projecting sufficiently, to cover the exterior rim of the bed plate, the under side of which, is turned smooth, and that to correspond to the top edge of the under rim. The interior of the top plate, is made convex, projecting downwards from the rim, towards the centre, and about one sixteenth of an inch, deeper in the finish, than the rim of the bed plate, and is all turned smooth upon the inside, and the centre is made to bear, upon the centre of the bed plate, upon a surface of four inches in diameter, more or less, and upon this centre, the whole weight of the car body and load rest, and at the same time allows the bed plate to vibrate or revolve under the cap plate sufficiently for all of the curves and crossings of the road, or to make an entire revolution, if desired. The bed plate is made fast upon the centre of the truck;- the cap plate is made fast to the carriage body. The centre of the cap plate, being made a grain deeper, than the height of the exterior rim, the flange of the top plate, is left free, from the rim of the bed plate, except when the cap is out of level, at which time, the rims gripe each other, and thus prevent its being tilted out of the bed.

It will thus be seen, that by the application of these essential means, as described, a mode of supporting eight wheel Rail Road car carriages on their trucks was adopted;- that by the connection made, by these means, a support was given to the carriage, to keep and hold it, in its proper and desired position, on the truck;- that the support and protection afforded, was a longitudinal one, when the car was moving in a forward or backward direction, or when by a collision, or any other cause force was applied to it, longitudinally;- a lateral one, when turning curves, or when the car from any cause, received a lateral or side

The devices which the Defendants use and apply, to connect their car carriages with the truck, and to give support, vertically, longitudinally and laterally to the carriage, while on the truck, and to keep it in its proper position, and to secure it, from being detached from the truck, and to enable the whole to work easily, usefully, safely and securely, are the ordinary King bolt, such as is used, to connect, the carriage to the [illegible] forward wheels, in the common road waggon, connecting the carriage with the truck, and passing through the centre of the two Cylinder plates hereinafter mentioned;- side bearings near the sides of the carriage, resting on the truck, and which are intended, as a vertical support to the carriage, and two Cylindrical plates, male and female, one within the other, and acting in combination;- one strongly attached and fastened to the ~~carriage~~ truck, the other strongly attached and fastened to the carriage in the middle thereof, and at or near each end. The Cylindrical plates, used by the Defendants, they call guard collars, for the King bolt_

These devices, as they are used and applied, on the Rail Road cars, of the Defendants, are intended, as it is claimed, to be so arranged and adjusted, that the whole vertical support, is to be afforded by the side bearings;— and the whole longitudinal and lateral support, by the King bolt, or the King bolt, and side bearings combined, and that the two Cylinder plates are so arranged and applied, that they do not touch each other, and do not therefore afford any vertical, longitudinal or lateral support to the carriage, while on the truck;— that they are mere Guard collars, useful only, in case, the King bolt, should get out of place, or from any cause, should not perform its proper function, to hold together in their proper place the carriage and truck, and to give to the carriage the necessary longitudinal and lateral support.

In the practical operation of the devices, as applied and used by the Defendants on their cars, it frequently occurs, from the wear of the side bearings, or from the manner in which the devices are adjusted, that the interior of the top Cylindrical plate, which projects downwards into the Cylindrical bed plate, towards its bottom, is made to bear upon the bottom of the bed plate, on the inside thereof, so that upon it, the weight of the car body and load rests, either wholly or in part. If for any cause, the side bearings cease to afford any vertical support, then the whole vertical support is afforded by the Cylindrical plates. And it frequently occurs, from the wear of the King bolt, or from some defect in it, or from an adjustment of the several devices, that the inner Cylindrical plate, does actually press upon the outer one, on the inside, both longitudinally and laterally, and thus by the mode in which they are applied, they do actually afford a longitudinal and lateral support. And whenever from any cause, the King bolt, and side bearings become useless, the Cylinder plates, as applied, are the only essential means, which afford the entire vertical, longitudinal and lateral support.

But I do not dispose of the case, upon this limited view taken of it. For the use and application of the two Cylinder plates, one within the other, as the Defendants claim they are used and applied, on their Rail Road eight wheeled Cars, would be, in violation of the rights secured to the Complainant, by his Patent. Such use and application, would give substantial support, to the Rail Road Carriages, and would be the use and application of the essential means discovered by, and patented to the Complainant, by which such support would be obtained. It is not necessary that such use and application, should be the only essential means, by which the support is afforded, to make such use and application, an infringement of the Complainant's Patent. If it was all Patents could be infringed with impunity, by adding something to the means patented. If they are an essential means, though other means are used, in connexion with them, to give the required support, the Patent has been infringed; even though the object or result to be secured, by such other means used in connexion, is better accomplished.

The application of the cylinder plates, one within the other, as the Respondents claim they are applied by them, is for some purpose. Before the invention of the Complainant, such application, to Rail Road cars, ~~or other carriages~~ had never been known. And the general use of such application, since the invention of the Complainant, in one form or another, to all eight wheeled Rail Road cars, on most, if not all the Rail Roads in the Country, shows, that such use was and is, for a highly useful purpose. It was and is to accomplish a desirable result. The Respondents say, that the cylinder plates, as used and applied by them are merely the guard collar, for the king bolt; which king bolt, affords the longitudinal and lateral support to the carriage. Upon this hypothesis, they are used and applied, as an aid, to the support afforded;- as an essential means, to make that support effectual;- as an assistant, to make the support secure- And it has already been shown, that it is not necessary, that the way in which they are applied, should afford the sole support, rendered, to make the use and application, an infringement of the Patent. They are means used, the more effectually and securely, to keep and hold in proper position the carriage on the truck. The object of support, and the meaning of the word, as it used, in the Patent, are to keep and hold the carriage safely and securely, in such proper position. And the devices used by the defendants, are for that purpose. None of them are for any other purpose- The Cylinder plates, as used by them, one within the other, are for that purpose, and are effective in aid of the accomplishment of such purpose, whether called a guard collar for the King bolt, or called by any other name. Their office is, to securely and safely keep and hold, without any other instrumentality, the carriage in its proper position, on to the truck, whenever, from any cause, the King bolt, and side bearings, are insufficient, for that purpose. When from any cause, the King bolt, and side bearings, do not perform their office, they are the only device, to keep the carriage in such proper position, and to afford it, the necessary vertical longitudinal and lateral support. And it is not necessary, when the Cylinder plates have been used and applied, as they have been used and applied by the Defendants, that the King bolt and side bearings should be insufficient, before there can be an infringement of the Patent. The Patent may be violated though the inner Cylindrical plate may not actually press upon the outer one.

Patents are to be construed liberally, and are not to be subject to a strict and rigid interpretation. The rights secured are to be protected against any substantial violations. Formal and subtle differences are to be disregarded. Where in two devices the end to be accomplished is the same, and the substantial means to accomplish the ~~and~~ end are the same, the two devices are ~~the same~~ identical, though one may accomplish the end, more effectually than the other.

With this view of the case, a decree must be in favor of the Complainant, as prayed for, except as to that part of the prayer, which seeks for an injunction, to restrain a further use. As the Patent has now expired, an injunction against a further use, cannot be ordered.

Sprague
Judge.

Richard Findlay
v
Norwich & Worcester
R R Company
in Cir Ct at Adm
Oct 1858
Opinion

Oct 1858